

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ANNETT HOLDINGS, INC. d/b/a TMC  
TRANSPORTATION, INC. and  
YELLOWSTONE TRUCKING, INC.,

Plaintiffs,

v.

CERTAIN UNDERWRITERS AT LLOYDS  
AND THOSE COMPANIES SEVERALLY  
SUBSCRIBING TO BOEING POLICY  
NUMBER 509/JC487006, RLI INSURANCE  
COMPANY, GREAT AMERICAN  
INSURANCE COMPANY, TOKIO MARINE  
& NICHIDO FIRE INSURANCE  
COMPANY, FIREMAN'S FUND  
INSURANCE COMPANY, ROYAL & SUN  
ALLIANCE INSURANCE PLC, ST. PAUL  
FIRE & MARINE INSURANCE COMPANY,  
MITSUI SUMITOMO INSURANCE  
COMPANY OF AMERICA, XL SPECIALTY  
INSURANCE COMPANY, THE BALOISE  
INSURANCE COMPANY, LTD.,  
HARTFORD FIRE INSURANCE  
COMPANY, ZURICH GLOBAL  
CORPORATE, UK LTD.,

Defendants.

CASE NO.: 08 C 1106 (JHL) (NRN)

**REPLY DECLARATION OF THOMAS M.  
EAGAN IN FURTHER SUPPORT OF  
DEFENDANTS' MOTION TO DISMISS  
THIS ACTION DUE TO A PRIOR  
ACTION PENDING**

I, Thomas M. Eagan, declare that I am a member of Maloof Browne & Eagan LLC, attorneys for Defendants, Certain Underwriters at Lloyds and those companies severally subscribing to Boeing Policy Number 509/JC487006, Royal & Sun Alliance Insurance plc, RLI Insurance Company, St. Paul Fire & Marine Insurance Company, Great American Insurance Company, Mitsui Sumitomo Insurance Company of America, Tokio Marine & Nichido Fire

Insurance Company, XL Specialty Insurance Company, Fireman's Fund Insurance Company, The Baloise Insurance Company, Ltd., Hartford Fire Insurance Company and Zurich Global Corporate, UK Ltd. (hereinafter "Defendants"). I declare the following upon information and belief.

1. I attach hereto as Exhibit A a true copy of the electronic mail dated November 20, 2007 from TMC Transportation acknowledging the Request for Mediation.

2. I attach hereto as Exhibit B a true copy of the electronic mail dated November 28, 2007 from the American Arbitration Association.

3. I attach as Exhibit C a true copy of page 1833 from Tetley, *Marine Cargo Claims* (4<sup>th</sup> Ed. 2008).

4. I attach as Exhibit D a true copy of the interview dated June 9, 2007 with Betty Messer (truck driver involved in the incident) prepared by Pinkerton.

5. I attach as Exhibit E a true copy of an excerpt from the website of the Federal Motor Carrier Safety Administration re the Company Safety Profile of Annett Holdings d/b/a TMC Transportation, Inc.

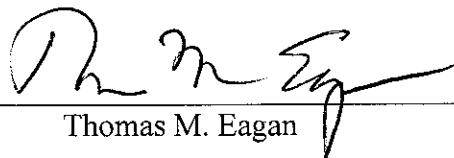
6. I attach as Exhibit F a true copy of the DOT Enforcement Case Report #1A-2006-1118-050858 re false reports of records of TMC.

7. I attach as Exhibit G a true copy of a Report dated February 13, 2008 of David F. Dinges, Ph.D, re awareness of sleepiness prior to falling asleep while driving.

8. I attach as Exhibit H a true copy of an electronic mail dated February 6, 2008 from Defendants' counsel to Plaintiffs' counsel.

I declare the foregoing is true and correct under penalty of perjury of the laws of the United States.

Dated: Rye, New York  
June 9, 2008



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Thomas M. Eagan